

REMARKS

By the present amendment, Applicant has amended Claim 1, and canceled Claims 2 and 19-20. Claims 1 and 3-18 remain pending in the present application. Claim 1 is the sole independent claim.

The Examiner has maintained the propriety of the restriction requirement of record and has made it FINAL. Claims 19 and 20 were held withdrawn from further consideration by the Examiner as being directed to a non-elected invention. Accordingly, it is proposed herein that the instant claims be canceled to expedite prosecution of the present application. However, it should be noted that under the provisions of 35 U.S.C. § 121 Applicant reserves the right to file a divisional application directed to the non-elected subject matter.

In the recent Office Action, the Examiner rejected Claims 1, 2, 11 and 12 under 35 U.S.C. § 102(b) as being anticipated by Bible (U.S. Patent No. 4,779,360). Claims 3-10 and 13-18 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Bible, taken alone, or in view of Simonson (U.S. Patent No. 1,999,214), Massengale (U.S. Patent No. 4,704,810), Maples (U.S. Patent No. 5,024,008) and/or Plotkin (U.S. Patent No. 4,967,491).

Independent Claim 1 has been amended to more particularly define the subject matter in question. Specifically, the traction material is now defined as being selected from sand, crushed rock, crushed porcelain, crushed sea shells, crushed nut shells, and

combinations thereof. and may, in addition, have chains 30 similarly imbedded for additional traction. The full overshoes or overshoe slippers with traction soles of the subject Application are lightweight, flexible, and stretchable for easy, compact stowing and convenient mounting over the wearer's shoes. The claimed overshoes are particularly useful for anyone who may have to walk on icy sidewalks, parking lots, or the like when encountering winter weather or other slippery conditions.

Applicant contends that the patent to Bible, taken separately or in combination with Simonson, Massengale, Maples and/or Plotkin fail to describe or reasonably suggest a traction sole overshoe having the combination of structural as defined by the present claims.

The Bible reference is directed to a shoe attachment to reduce inner and outer skidding. The attachment 10 includes a sole 22 mounted to a lower portion 24. The sole 22 includes anti-skid means 28, in the form of a plurality of granular particles 30, with the granular particles 30 being formed from aluminum oxide, silicon carbide and/or tungsten carbide.

In contradistinction, the disperse traction material 16 imbedded in the sole 14 of the subject Patent Application system is formed from sand, crushed rock, crushed porcelain, crushed sea shells, crushed nut shells and combinations thereof. The term "sand" is well known in the art to mean crushed silica (silicon dioxide), typically in the form of crushed or powdered quartz. Sand is, of course, quite plentiful and is naturally provided in a particulate form, which may be easily embedded in a rubber shoe sole. The

silicon carbide of the Bible reference is quite distinct from sand, in that silicon carbide not only has entirely different chemical properties than sand, but is also mostly a manmade substance, typically formed from melting together silica sand and carbon at high temperatures.

Porcelain is also a term which is well known in the art, and which is generally accepted as being a ceramic material, usually formed from naturally occurring clay. Similarly, the composition of sea shells is well know and generally accepted in the art to include nacre (a scleroprotein) and calcium carbonate. Silica, crushed rocks, crushed porcelain, calcium carbonate and crushed nut shells are all chemically and physically distinct from the aluminum oxide, silicon carbide and tungsten carbide taught in the Bible reference.

Thus, the Bible reference does not provide for: "... said disperse traction material being selected from the group consisting of sand, crushed rock, crushed porcelain, crushed sea shells, crushed nut shells and combinations thereof ...", as is clearly provided in newly-amended independent Claim 1. Applicant respectfully submits that the patent to Bible is deficient as an anticipatory reference against independent Claim 1, as presently amended. Moreover, the Bible patent is insufficient to render the presently claimed invention obvious within the meaning of 35 U.S. C. 103 since this reference fails to teach or suggest Applicant's disperse traction material that form the basis of the present claims. As discussed in detail above, silica, crushed rocks, crushed porcelain, calcium carbonate and crushed nut shells are all chemically and physically distinct from the aluminum oxide, silicon carbide and tungsten carbide taught in the Bible reference.

The patents to Simonson, Massengale, Maples and Plotkins were relied upon by the Examiner to show ancillary features of Applicant's claimed invention. Notwithstanding, these secondary references fails to supplement the above noted deficiency of the primary reference to Bible. Thus, one of ordinary skill in the art without the benefit of Applicant's own disclosure would not be capable of arriving at the presently claimed invention by combining these references in the manner suggested by the Examiner.

Applicant contends that the patent to Bible is deficient as anticipatory reference against the present claims since this reference fails to disclose the essential structural feature that form the basis of Applicant's claims. Further, it is Applicant's contention that the instant reference, taken separately, or in combination with Simonson, Massengale, Maples and/or Plotkins is insufficient to render the presently claimed invention obvious within the meaning of 35 U.S.C. 103. For at least these reasons, Applicant respectfully submits that independent Claim 1, as amended, and corresponding dependent Claims 3-18 are allowable over the prior art of record.

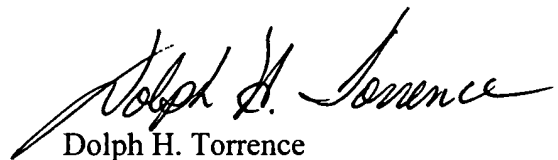
The remaining references cited of record by the Examiner but not applied against the claims have been duly considered, but are believed to be further removed when patentable distinctions are taken into account than those cited by the Examiner in the rejection.

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For the foregoing reasons, Applicant respectfully submits that the present application is in condition for allowance. If such is not the case, the Examiner is requested to kindly contact the undersigned in an effort to satisfactorily conclude the prosecution of this application.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Dolph H. Torrence". The signature is fluid and cursive, with the first name "Dolph" being more prominent.

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